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OFFICE OF PETITIONS

In re Patent No. 7,635,496 :
Issue Date: December 22, 2009 :
Application No. 10/524,014 : **ON PETITION**
Filed: February 8, 2005 :
Attorney Docket No. 5059-0102PUS1 :

This is a decision on the petition, filed April 14, 2010, which is being treated as a petition requesting that the requirement of 37 CFR 3.81(b) be waived or suspended pursuant to 37 CFR 1.183 and a Request to issue a Certificate of Correction under 37 CFR 1.323.

The petition 37 CFR 1.183 is **DISMISSED**.

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner.

Petitioner has requested that 37 CFR 1.323 be waived to permit the correct name of the Assignee to be provided after issuance of the patent. Petitioner has provided a copy of a Certificate of Correction under 37 CFR 1.323 to correct the Assignee's name on the issued patent.

Since the petition does not include an extraordinary situation that justice requires, the USPTO does not have the authority to waive this requirement.

The petition under 37 CFR 3.81(b) is **DISMISSED**.


37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction

under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Telephone inquiries regarding this communication should be directed to Diane C. Goodwyn at (571) 272-6735.


Thurman K. Page
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Office of Petitions